

Merced Subbasin Groundwater Sustainability Agency Governing Board

County of Merced Board Chambers, Third Floor

2222 M Street, Merced, California

March 22, 2019

Special Meeting

10:00 AM

AGENDA

Bob Kelley, Stevinson Water District
George Park, Lone Tree Mutual Water Company
Lloyd Pareira, County of Merced

Kole Upton, Le Grand-Athlone Water District
Michael Gallo, Eastern White Area Representative
Nic Marchini, Western White Area Representative

Alternate formats of this agenda will be made available upon request by qualified individuals with disabilities. Appropriate interpretive services for this meeting will be provided if feasible upon advance request by qualified individuals with disabilities. Please contact the Secretary at (209) 385-7654 for assistance and allow sufficient time to process and respond to your request. Copies of agendas and minutes will be available at the Merced County Community and Economic Development Department and at www.countyofmerced.com/MercedSubbasinGSA.

1. CALL TO ORDER/ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENT PERIOD

Public opportunity to speak on any matter of public interest within the Board's jurisdiction including items on the Board's agenda. Testimony limited to three minutes per person.

4. ELECTION OF OFFICERS

Action to elect a Chair, Vice Chair and Secretary for a two year term ending March 2021.

5. APPROVAL OF MINUTES

Action to approve the meeting minutes from January 10, 2018.

6. COMMITTEE APPOINTMENTS

Action to appoint Board Members to fill vacant committee positions on the Coordination Committee.

7. BROWN ACT OVERVIEW

Informational presentation by GSA attorney Jeanne Zolezzi on the Brown Act. No action required.

8. PROPOSITION 218 PROGRESS

Action to direct staff and consultants to move forward with the outreach mailings and public workshops based on the preferred alternative and return to the Board in June with the fee study report and to set the public hearing

9. COORDINATION COMMITTEE UPDATE

10. TECHNICAL AND ADVISORY COMMITTEES UPDATE

11. STAFF UPDATE

12. COMMENTS FROM THE BOARD

13. NEXT REGULAR MEETING: APRIL 11, 2019

14. ADJOURNMENT

**MERCED SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY JOINT POWERS
AUTHORITY (JPA)
GOVERNING BOARD**

MINUTES FOR MEETING OF JANUARY 10, 2019

The agenda, original minutes, and all supporting documentation (for reference purposes only) of the Merced Subbasin Groundwater Sustainability Agency Governing Board meeting of January 10, 2019 are available online at www.countyofmerced.com/MercedSubbasinGSA.

I. CALL MEETING TO ORDER

The closed session meeting of the Merced Subbasin Groundwater Sustainability Agency Joint Powers Authority Governing Board was called to order at 12:00 p.m., on January 10, 2019, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California followed by the regular public meeting at 2:00 p.m.

II. CLOSED SESSION

Conference with Legal Counsel—Potential Litigation- (Subdivision (b) of Government Code Section 54956.9) 1 potential case.

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL OF BOARD MEMBERS

Board Members

Present: Bob Kelley- Chairman (Stevinson Water District)
Nic Marchini- Vice Chair (Plainsburg Irrigation District)
David Farmer- (Western White Area)
George Park- (Lone Tree Mutual Water Company)
Jeff Bergeron- (Eastern White Area)
Supervisor Lloyd Pareira- (Alternate-Merced County)

Board Members

Absent: Rodrigo Espinoza- (Merced County)

Staff Present:

Mark Hendrickson, Secretary
Kristin McHaney, Recording Secretary
Lacey Kiriakou, Merced County Water Resources Coordinator

V. PUBLIC COMMENT PERIOD

None

VI. APPROVAL OF MINUTES

MOTION: M/S PARK– FARMER, AND CARRIED BY A VOTE OF 5 – 0, THE BOARD APPROVES THE MINUTES FROM THE NOVEMBER 01, 2018 MEETING.

VII. WEBSITE UPDATE

No action required, Informational item only.

Mr. Matthew Jackson, staff for CivicSpark, provided an update regarding the Merced Subbasin GSA website and discussed updates and features.

VIII. SUBSIDENCE IN MERCED AND CHOWCHILLA SUBBASINS

No action required, Informational item only.

Mr. Chase Hurley, from Triangle T Water District, gave presentation on projects in the Red Top area to address subsidence. Mr. Hurley also informed about conversations with other water districts for a possible project in the Merced Subbasin area to get more surface water availability in this region. Mr. Hurley stated that the goal is to obtain a temporary state license and eventually get a permanent license from the state.

IX. MEMORANDUM OF INTENT (MOI) WITH TURLOCK SUBBASIN GSAS

Ms. Lacey Kiriakou, Water Resources Coordinator for Merced County, presented the GSA Board with information on the MOI between the Merced Subbasin GSAs and the Turlock Subbasin GSAs and informed that the intent with the MOI is for the two GSAs to coordinate and collaborate together.

MOTION: M/S PARK– MARCHINI, AND CARRIED BY A VOTE OF 5 – 0, THE BOARD APPROVES AND AUTHORIZES THE CHARIMAN TO SIGN THE MEMORANDUM OF INTENT TO COORDINATE (MOI) BETWEEN THE MERCED SUBBASIN GSAs AND THE TURLOCK SUBBASIN GSAs.

X. AMENDMENT TO WOODARD AND CURRAN CONTRACT

Ms. Lacey Kiriakou informed the GSA on the amendment/revival to Contract 2018/01 with Woodard and Curran, Inc. to continue to provide engineering, technical and professional services related to the Prop. 218 process through December 31, 2019.

MOTION: M/S MARCHINI– FARMER, AND CARRIED BY A VOTE OF 5 – 0, THE BOARD APPROVES AND AUTHORIZES THE CHARIMAN TO SIGN THE

AMENDMENT/REVIVAL TO CONTRACT 2018-01 WITH WOODARD AND CURRAN, INC. TO CONTINUE TO PROVIDE ENGINEERING, TECHNICAL AND PROFESSIONAL SERVICES RELATED TO THE PROP. 218 PROCESS THROUGH DECEMBER 31, 2019.

XI. COORDINATION COMMITTEE UPDATE

Report was given that Woodard and Curran is working on the allocation framework and updating information. There will be two public workshops in December in the Franklin Beechwood area and in Planada to provide information and discussion about water budgets and water allocation. Spanish translation will be available at both meetings.

XII. TECHNICAL AND ADVISORY COMMITTEES UPDATE

Ms. Kiriakou informed that the purpose of the joint committee is to review information and provide recommendations to the GSA. Feedback from the TAC Committee has been to define what a shallow well is and also recommendations were made to have ground water measurements at the end of summer, as well as the regular spring and fall well monitoring. Ms. Kiriakou stated that the TAC Committee has reviewed presentations and have had discussions regarding the Merced Water Resources Model.

XIII. STAFF UPDATE

Ms. Kiriakou gave notice that it would be Mr. David Farmer's last day as a GSA board member and she thanked him for his time on the GSA. She informed that three seats that were filled in 2017 would have new elections and there would be new representatives for these seats at the next board meeting.

XV. COMMENTS FROM THE BOARD

Mr. David Farmer thanked the GSA Chairman, the Board and Staff and complimented their work on the GSP.

V. ADJOURNMENT

There being no further business, the meeting adjourned at 2:52 p.m.

BOARD ACTION ITEM

TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD
FROM: MARK HENDRICKSON, SECRETARY
DATE: MARCH 22, 2019

SUBJECT: ELECTION OF OFFICERS

SUMMARY:

The Joint Powers Agreement, Article 8, calls for the Governing Board to choose Officers at the first Governing Board meeting. These Officers will serve for a term of two years and may serve for multiple consecutive terms.

The election of Officers will be made through a motion to nominate, supported by a second motion, and followed by a vote of the Board Members. Any person who wishes to nominate themselves may do so, such nomination must receive a second nomination and a vote. The Chair and Vice-Chair shall be appointed from the Governing Board by the Governing Board. The nominations process will be open for all nominations, then will close prior to taking action.

The Secretary is not required to be a member of the Governing Board, but can be a member of the staff of one of the Members. For the past two years Merced County's Director of Community of Economic Development, Mr. Mark Hendrickson, has served, at the action of the Governing Board, as the Secretary and designated staff to take minutes. Mr. Hendrickson is available to continue to serve as Secretary and designate staff to take minutes, should the Governing Board choose.

Chairman - shall preside at all Governing Board Meetings

Vice-Chairman - shall act in place of the Chairman at meetings should the Chairman be absent.

Secretary - shall keep minutes of all meetings of the Governing Board and shall, as soon as possible after each meeting, forward a copy of the minutes to each member and alternate of the Governing Board.

REQUEST/RECOMMENDATION/ACTION NEEDED:

- 1) Board Members nominate from the Board and vote on Chair position
- 2) Board Members nominate from the Board and vote on Vice-Chair position.
- 3) Board Members nominate and vote on Secretary position.

BOARD ACTION ITEM

TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD
FROM: MARK HENDRICKSON, SECRETARY
DATE: MARCH 22, 2019

SUBJECT: COMMITTEE APPOINTMENTS

SUMMARY:

COORDINATION COMMITTEE

In order to facilitate the close coordination between the Merced Subbasin GSA, the Merced Irrigation Urban GSA and the Turner Island Water District GSA on a single GSP in the Merced Subbasin, a Coordination Agreement was signed by each GSA in 2017. Under this Coordination Agreement a Coordination Committee was formed consisting of representatives of each GSA. The decision making process through the Coordination committee is to make unanimous recommendations back to each GSA Board for final approvals and to facilitate the GSP development process.

The Coordination Committee has been meeting monthly on the fourth Monday of each month since early 2018. The Coordination Committee meetings are facilitated by the GSP development consultant Woodard and Curran.

The Coordination Committee is made up of up to four representatives of each GSA. Due to Brown Act constraints, the Merced Subbasin GSA may appoint three board members to the Coordination Committee. The three Merced Subbasin GSA representatives appointed to the Coordination Committee in September 2017 were Bob Kelley, Nic Marchini, Rodrigo Espinoza and George Park as the alternate. An alternate may be appointed to attend when one of the primary representatives cannot attend.

Due to a change in Board Members, Rodrigo Espinoza is no longer a primary representative on the Governing Board, this has created a vacancy on the Coordination Committee for the Governing Board to appoint. To maintain consistency with GSA representation to the Coordination Committee and in recognition of the valuable understanding of the GSP development over the past year of meetings, staff is recommending reappointing Bob Kelley and Nic Marchini to continue on the Coordination Committee. There are multiple expressions of interest in filling the vacancy and participating on the Coordination Committee.

TECHNICAL AND ADVISORY COMMITTEES

Unless otherwise directed by the Governing Board, the ex officio member of the Technical Committee will continue to be the Chair and the ex officio member of the Advisory Committee will continue to be the Vice Chair.

REQUEST/RECOMMENDATION/ACTION NEEDED:

1. Action to reappoint Bob Kelley and Nic Marchini to the Coordination Committee.
2. Action to appoint a third member to the Coordination Committee.
3. Action to appoint an alternate to the Coordination Committee.

BOARD ACTION ITEM

TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD
FROM: MARK HENDRICKSON, SECRETARY
DATE: MARCH 22, 2019

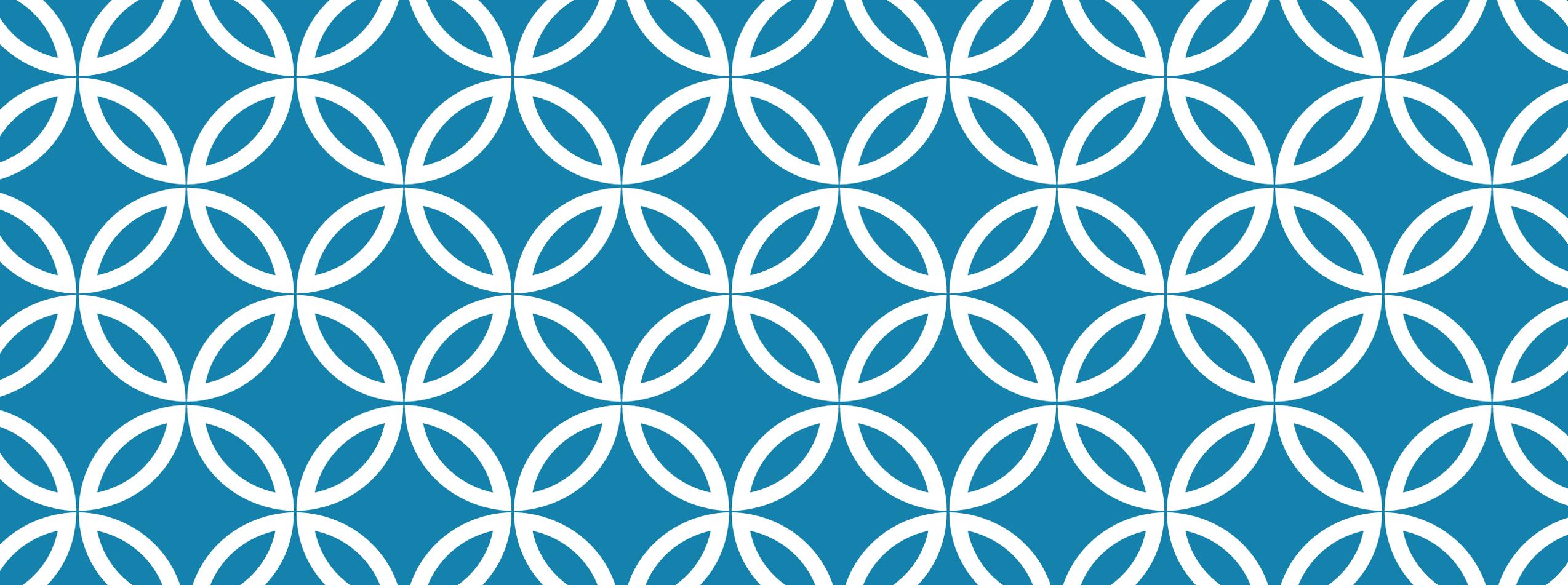
SUBJECT: BROWN ACT OVERVIEW

SUMMARY:

GSA attorney Jeanne Zolezzi will provide a brief presentation summarizing the Brown Act for board member information.

REQUEST/RECOMMENDATION/ACTION NEEDED:

Informational item. No action required.



THE BROWN ACT

Merced Subbasin GSA
Presented by Jeanne Zolezzi
Herum\Crabtree\Suntag
March 2019

THE BROWN ACT

The Ralph M. Brown Act (Government Code sections 54950-54963) is intended to provide public access to meetings of California local government agencies. Its purpose is described in the Act:

In order to achieve this objective, governmental bodies subject to the requirements of the Brown Act must provide public notice of their meetings, post agendas of the subjects to be discussed at those meetings, and provide public access to those meetings. Public notice of every meeting subject to the Brown Act is required, and access is mandatory unless the meeting is held in closed session under a specific exception contained in the Act.

THE BROWN ACT: WHO DOES IT APPLY TO?

The Act applies to the meetings of “legislative bodies” of local agencies.

Also includes subsidiary bodies – including committees.

- Notice requirements for committees are the same.
- Other members can attend but only as passive, neutral observers.
 - No wincing, frowning, smiling, thumbs up.
 - Must be neutral in expression and body language.
 - No questions or comments.

THE BROWN ACT: WHAT IS A MEETING?

A meeting as defined by the Act includes any “congregation by a majority” of a legislative body at the same time and place to “hear, discuss, or deliberate” on any matter within the jurisdiction of the body.

As the Attorney General explains: “This definition makes it clear that the body need not take any action in order for a gathering to be defined as a meeting. A gathering is a meeting if a majority of the members of the body merely receive information or discuss their views on an issue. A meeting also covers a body’s deliberations, including the consideration, analysis or debate of an issue, and any vote which may ultimately be taken.”

A meeting does not have to be formally announced, agendized, or convened in order to be subject to the Act.

THE BROWN ACT: WHAT IS A MEETING?

Serial meetings, either in person or by telephone or fax or go-betweens, constitute a meeting if done to “develop a collective concurrence as to action.”

Serial meetings & series of communications:

- Hub and spokes communications. “A to B,” “A to C,” and “A to D” can lead to a collective concurrence
- Chain communications. “A to B” and “B to C” can lead to a “collective concurrence.”

Email communications: a majority of a body violates the Act if they e-mailed each other regarding current issues under the body’s jurisdiction.



THE BROWN ACT: COLLECTIVE CONCURRENCE?

Substantive conversations

Advancing or Clarifying Understanding

Facilitating Agreement or Compromise

Advancing a Motion or Resolution

Debating

Briefing or Informational Sessions

THE BROWN ACT: WHAT IS NOT A MEETING?

Individual contacts or conversations.

Attendance of a majority of members at a conference open to the public that involves a discussion of general interest to the public or “to the public agencies of the type” attending the conference provided the members do not discuss legislative business among themselves.

Attendance by a majority of the members at an open and publicized meeting called by someone other than the legislative body to discuss topics of community interest.

Attendance by a majority of members at an open and publicized meeting of another body of the local agency, provided the members do not discuss among themselves matters within their jurisdiction that is not the subject of the meeting.

Attendance at a ceremonial or social event by a majority of members provided they do not discuss among themselves matters within their jurisdiction.

THE BROWN ACT: WHERE CAN MEETINGS BE HELD?

A meeting facility within the boundaries of the territory over which the legislative body has jurisdiction, or if none, the closest one to the territory.

SOME Exceptions ALLOWED: To attend multi-agency meetings; To meet with elected officials; To comply with the law or court order; etc.

Meetings must be accessible under the Americans with Disabilities Act of 1990.

THE BROWN ACT: TELECONFERENCING

- ❖ The legislative body may use teleconferencing for the benefit of the public in connection with any meeting.
- ❖ All votes taken during the teleconference meeting shall be by roll call.
- ❖ The legislative body shall post agendas at all teleconference locations.
- ❖ Each teleconference location shall be identified in the agenda and accessible to the public.
- ❖ During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction.
- ❖ The agenda shall provide an opportunity for members of the public to address the legislative body directly at each location. (Section 54953.)

THE BROWN ACT: CLOSED SESSIONS

The public may not be excluded from a meeting, except as expressly authorized by the Brown Act. Most common exemptions:

REAL PROPERTY: to meet with its negotiator to grant authority regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property

LITIGATION: to confer with legal counsel regarding pending or threatened litigation when discussion in open session concerning those matters would prejudice the position of the local agency in the litigation

THREATS: to meet with local representatives on matters posing a threat to the security of public buildings, a threat to the security of essential public services, or a threat to the public's right of access to public services or public facilities

PERSONNEL: to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee

THE BROWN ACT: CLOSED SESSION = CONFIDENTIAL INFORMATION

Disclosure of confidential information that is acquired during closed session is prohibited unless the legislative body authorizes such disclosure.

Confidential information is defined as a communication made in closed session that is specifically related to the basis for the legislative body to lawfully meet in closed session.

THE BROWN ACT: PUBLIC COMMENT

REGULAR MEETINGS

The public may comment on any matter within the board's subject matter jurisdiction even if not on the agenda (called "non-agenda public comment")

Must be allowed to comment on agenda items.

Reasonable regulations, including time limits may be adopted, but must be fair.

SPECIAL MEETINGS

Comments must be allowed on agenda items.

Board may allow non-agenda comment, but not required.

THE BROWN ACT: PUBLIC COMMENT

Limited Response is allowed to Public Comment on Items not on the Agenda.

Brief responses to statements or questions are permitted, but no discussion, debate, or action.

Board Members may ask questions for clarification.

May refer to staff for:

- Information
- Request to report back
- Direct to place matter on a future agenda

BOARD ACTION ITEM

TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD
FROM: MARK HENDRICKSON, SECRETARY
DATE: MARCH 22, 2019

SUBJECT: PROPOSITION 218 PROGRESS

SUMMARY:

In July 2018 this Board approved two contracts with consultant firms Woodard and Curran and Provost and Pritchard regarding a Proposition 218 fee in the Merced Subbasin GSA's management area to fund Groundwater Sustainability Agency administration and Groundwater Sustainability Plan development and implementation. To date, the consultant firms have been working with a work group of GSA board members to develop a budget, timeline and alternatives, along with a preferred alternative for the Board consideration.

Joe Hopkins with Provost and Pritchard will present an update of the Proposition 218 progress along with the preferred alternative. The Board is requested to consider providing direction to staff regarding the preferred alternative and the advancement of the Proposition 218 process through public workshops and outreach, along with bringing a fee study report back to the board at a later date.

REQUEST/RECOMMENDATION/ACTION NEEDED:

Action to direct staff and consultants to move forward with the outreach mailings and public workshops based on the preferred alternative and return to the Board in June with the fee study report and to set the public hearing